

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

T-MOBILE WEST LLC and
INDEPENDENT TOWERS HOLDINGS,
LLC,

Plaintiffs,

v.

THE CITY OF MEDINA, WASHINGTON,

Defendant.

No. 2:14-CV-1455-RSL

PLAINTIFFS' EMERGENCY MOTION
FOR RELIEF FROM OPPOSITION
DEADLINE AND FOR IMMEDIATE
STAY

NOTE ON MOTION CALENDAR:
8/14/15

Plaintiffs T-Mobile West LLC ("T-Mobile") and Independent Towers Holdings, LLC ("Independent Towers") (collectively "Plaintiffs"), hereby move the Court to grant all parties relief from the deadline to oppose Intervenor's Motion for Summary Judgment (Docket #71), which would otherwise be due on August 24, 2015, and to Stay any further proceedings until the Court rules on the Joint Motion for Entry of Stipulated Judgment, filed by Plaintiffs and Defendant The City of Medina (the "City") on May 14, 2015 (Docket # 31).

Counsel for Defendant City of Medina has informed counsel for T-Mobile that the City consents to this motion for stay. Counsel for Intervenor's have communicated to counsel for

1 Plaintiff T-Mobile that Intervenor would not be able to take a position on this motion before it
2 needs to be filed today.

3 On August 4, 2015, one month after stipulating (Docket #62) to stay discovery until the
4 Court resolved Plaintiffs' and Defendant's Joint Motion for Entry of Stipulated Judgment,
5 Intervenor filed a motion for summary judgment alleging that one of Plaintiffs' claims is
6 premature for failure to exhaust administrative remedies. The Intervenor's motion is meritless.
7 However, it does present a bigger issue, prompting the instant motion. Simply put, Plaintiffs
8 and Defendant City have entered into a settlement agreement, settling the case. Plaintiffs and
9 the City have filed a Joint Motion for the Court to enter a stipulated judgment based on that
10 settlement agreement (Docket # 31). That Joint Motion has been briefed and is ready for the
11 Court's resolution.

12 It is illogical and inefficient for Plaintiffs to be required to respond to Intervenor's
13 motion for summary judgment when there is a motion pending already that should resolve the
14 case. The point of settlement, at least in part, is to avoid the costs of litigation. Plaintiffs and
15 the City believe that they have settled the case. It is not appropriate for an intervenor to force
16 the parties to litigate the merits of a settled case. *See, e.g., So. Cal. Edison Co. v. Lynch*, 307
17 F.3d 794, 806-07 (9th Cir. 2002) (citing *Local No. 93, Int'l Ass'n of Firefighters, AFL-CIO v.*
18 *City of Cleveland*, 478 U.S. 501, 528-29 (1986)). Requiring the Parties to respond to
19 Intervenor's summary judgment motion would force them to litigate a case that they have
20 settled, undermining the strong public policy in favor of settlements. *Dacanay v. Mendoza*, 573
21 F.2d 1075, 1078 (9th Cir. 1978) (recognizing the "policy favoring the amicable adjustment of
22 disputes and the concomitant avoidance of costly and time consuming litigation"); *Turtle Island*
23 *Restoration Network v. U.S. Dept. of Commerce*, 672 F.3d 1160, 1167 (9th Cir. 2012)

1 (“Settlement is to be encouraged.”); *U.S. v. McInnes*, 556 F.2d 436, 441 (9th Cir. 1977) (noting
 2 that “the law favors and encourages compromise settlements,” and that “there is an overriding
 3 public interest in settling and quieting litigation”); *see also, Brehmer v. Planning Board of the*
 4 *Town of Wellfleet*, 238 F.3d 117, 121 (1st Cir. 2001) (speedy resolution of claims under 47
 5 U.S.C. § 332(c)(7)(B) favored; settlement of such claims fully consistent with the Act). If the
 6 parties are required to respond to Intervenor’s motion for summary judgment, they will be
 7 denied the fundamental benefits underlying settlements. *Patterson v. Omnipoint*
 8 *Communications, Inc.*, 122 F. Supp. 2d 222, 228 (D. Mass. 2000) (“it behooves the board to
 9 settle with the Plaintiff company on the most favorable terms possible; rather than spend more
 10 on litigation, with the potential to receive less favorable terms from a judgment”).

11 Indeed, the Stipulation Regarding Discovery filed by all parties on July 1, 2015
 12 acknowledges that further discovery should be deferred until after the Court rules on the
 13 Stipulated Judgment (Docket # 62). This, of course, makes practical sense for motions practice
 14 and all other proceedings in this case too. If the Court enters the proposed Stipulated
 15 Judgment, any other proceedings are moot. If, on the other hand, the Court denies the proposed
 16 Stipulated Judgment, the case schedule will need to be reset to reflect the substantive findings
 17 of the Court in ruling on that motion. At that time, discovery can be resumed, if appropriate,
 18 and the parties can pursue any further actions, including the Intervenor’s summary judgment
 19 motion, as may be appropriate in light of the Court’s ruling.

20 Accordingly, in order to preserve the purpose of and policy favoring settlements, , all
 21 parties should be accorded relief from the deadline for opposing summary judgment and any
 22 and all further proceedings in this case should be stayed pending the resolution by the Court of
 23 the Plaintiffs’ and Defendant’s Joint Motion for Entry of Stipulated Judgment.

1 Dated: August 6, 2015

Respectfully submitted,

2
3 /s/ Linda Atkins

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CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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